

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

JUL 3 2018

Clerk, U S District Court
District Of Montana
Billings

KELLY D. PORCH and MICHELLE
R. PORCH,

Plaintiffs,

vs.

OCHOA'S CONSTRUCTION, INC.;
PREFERRED CONTRACTORS
INSURANCE COMPANY RISK
RETENTION GROUP; GOLDEN
STATE CLAIMS ADJUSTERS; and
JOHN DOES I-V,

Defendants.

CV 17-93-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATION

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendation filed on June 15, 2018. (Doc. 80). Judge Cavan recommends that this Court vacate the Order Granting Filing of Second Amended Complaint and dismiss Plaintiffs' claims against PCIC and Golden State without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendation for disposition of this matter entered by United States Magistrate Judge Cavan (Doc. 80) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that the Order Granting Filing of Second Amended Complaint (Doc. 27) is VACATED; and Plaintiffs’ claims against PCIC and Golden state are DISMISSED without prejudice, to be raised again in the context of a separate action, subject to whatever defenses any defendant may have to those claims.

DATED this 2nd day of July 2018.


SUSAN P. WATTERS
United States District Judge